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HOUSE BILL 965

48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007

INTRODUCED BY

Gail Chasey

AN ACT

RELATING TO TAXATION; INCREASING THE CIGARETTE TAX; RESTATING THE DISTRIBUTIONS OF THE CIGARETTE TAX PROCEEDS, INCLUDING THE NEW CIGARETTE TAX; ALLOCATING THE INCREASE OF THE CIGARETTE TAX TO CONSTRUCT A NEW UNIVERSITY OF NEW MEXICO CANCER RESEARCH AND TREATMENT CENTER; PROVIDING FOR SALES AND ISSUANCE OF BONDS FOR A NEW CANCER RESEARCH AND TREATMENT CENTER BY THE NEW MEXICO FINANCE AUTHORITY; INCREASING THE TOBACCO PRODUCTS TAX; MAKING APPROPRIATIONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 6-21-6.7 NMSA 1978 (being Laws 2003, Chapter 341, Section 5, as amended) is amended to read:

"6-21-6.7. CREDIT ENHANCEMENT ACCOUNT CREATED--USE OF ACCOUNT--RELEASE OF MONEY TO THE GENERAL FUND.--

A. The "credit enhancement account" is created as a

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1 separate account within the authority for use only as provided
2 in this section.

3 B. All cigarette tax proceeds distributed each
4 month to the authority pursuant to Subsection G of Section
5 7-1-6.11 NMSA 1978 shall be deposited in the credit enhancement
6 account.

7 C. Amounts deposited in the credit enhancement
8 account may be pledged irrevocably as additional security for
9 the payment of the principal, interest, premiums and expenses
10 on bonds issued by the authority for:

11 (1) land acquisition, planning, designing,
12 constructing, equipping and furnishing additions [and],
13 improvements [to] and new facilities for the university of New
14 Mexico hospital and the cancer research and treatment center at
15 the university of New Mexico health sciences center; and

16 (2) land acquisition and the planning,
17 designing, construction and equipping of department of health
18 facilities or improvements to such facilities.

19 D. The authority shall determine monthly upon
20 receipt of cigarette tax proceeds if the individual amounts of
21 cigarette tax proceeds distributed pursuant to Subsection E or
22 F, respectively, of Section 7-1-6.11 NMSA 1978 are sufficient
23 to meet the monthly amount required for immediate payment or
24 designation for payment of principal, interest, premiums and
25 expenses on bonds additionally secured by the credit

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1 enhancement account. Any insufficient amount shall be paid
2 immediately from the credit enhancement account. A payment
3 from the credit enhancement account shall be reimbursed in
4 succeeding months from the individual amount of cigarette tax
5 proceeds distributed pursuant to Subsection E or F, as
6 applicable, of Section 7-1-6.11 NMSA 1978 in excess of the
7 amount required for immediate payment or designation for
8 payment of principal, interest, premiums and expenses on bonds.
9 All money in the credit enhancement account in excess of the
10 monthly amount required for immediate payment or designation
11 for payment of principal, interest, premiums and expenses on
12 bonds shall be transferred monthly by the authority to the
13 general fund.

14 E. Upon payment of all principal, interest,
15 premiums and expenses on bonds additionally secured by a pledge
16 of amounts deposited in the credit enhancement account, the
17 authority shall certify to the secretary of taxation and
18 revenue that all obligations for bonds have been fully
19 discharged and shall direct the secretary of taxation and
20 revenue and the state treasurer to cease distributing cigarette
21 tax proceeds to the authority pursuant to Subsection G of
22 Section 7-1-6.11 NMSA 1978 and to distribute those cigarette
23 tax proceeds to the general fund.

24 F. Any law authorizing the imposition, collection
25 or distribution of the cigarette tax or that affects the

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1 cigarette tax shall not be amended, repealed or otherwise
2 directly or indirectly modified so as to impair or reduce debt
3 service coverage for any outstanding revenue bonds that may be
4 secured by a pledge of those cigarette tax proceeds distributed
5 to the credit enhancement account, unless the revenue bonds
6 have been discharged in full or provisions have been made for a
7 full discharge."

8 Section 2. Laws 2003, Chapter 341, Section 3, as amended
9 by Laws 2005, Chapter 319, Section 1, shall be compiled in the
10 New Mexico Finance Authority Act and is amended to read:

11 "~~Section 2. NEW MEXICO FINANCE~~ AUTHORITY REVENUE
12 BONDS--PURPOSE--APPROPRIATION.--

13 A. The ~~[New Mexico finance]~~ authority may issue and
14 sell revenue bonds in compliance with the New Mexico Finance
15 Authority Act for a term not exceeding twenty years in an
16 amount not exceeding sixty million dollars (\$60,000,000) for
17 the purpose of land acquisition, planning, designing,
18 constructing, equipping and furnishing additions ~~[and]~~,
19 improvements ~~[to]~~ and new facilities for the university of New
20 Mexico hospital and the cancer research and treatment center at
21 the university of New Mexico health sciences center.

22 B. The ~~[New Mexico finance]~~ authority may issue and
23 sell additional revenue bonds in compliance with the New Mexico
24 Finance Authority Act for a term not exceeding twenty years in
25 an amount not exceeding fifteen million dollars (\$15,000,000)

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1 for the purpose of supplementing the proceeds of the bonds
2 issued pursuant to Subsection A of this section to acquire
3 land, plan, design, construct, equip and furnish additions
4 [~~and~~], improvements [~~to~~] and new facilities for the university
5 of New Mexico hospital and the cancer research and treatment
6 center at the university of New Mexico health sciences center.

7 C. The [~~New Mexico finance~~] authority may issue and
8 sell revenue bonds authorized by this section when the vice
9 president for health sciences of the university of New Mexico
10 certifies the need for issuance of the bonds. The net proceeds
11 from the sale of the bonds are appropriated to the health
12 sciences center of the university of New Mexico for the
13 purposes described in Subsections A and B of this section.

14 D. The cigarette tax proceeds distributed to the
15 [~~New Mexico finance~~] authority pursuant to Subsection E of
16 Section 7-1-6.11 NMSA 1978 shall be pledged irrevocably for the
17 payment of the principal, interest, premiums and related
18 expenses on the bonds and for payment of the expenses incurred
19 by the authority related to the issuance, sale and
20 administration of the bonds.

21 E. The cigarette tax proceeds distributed to the
22 [~~New Mexico finance~~] authority pursuant to Subsection E of
23 Section 7-1-6.11 NMSA 1978 shall be deposited each month in a
24 separate fund or account of the authority. Money in the
25 separate fund or account in excess of the monthly amount

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1 necessary for immediate payment or designation for payment of
2 principal and interest due on the bonds is appropriated to the
3 university of New Mexico health sciences center and shall be
4 transferred each month to the university of New Mexico health
5 sciences center.

6 F. Upon payment of all principal, interest and
7 other expenses or obligations related to the bonds, the [~~New~~
8 ~~Mexico finance~~] authority shall certify to the secretary of
9 taxation and revenue that all obligations for the bonds issued
10 pursuant to this section have been fully discharged and shall
11 direct the secretary of taxation and revenue and the state
12 treasurer to cease distributing cigarette tax proceeds to the
13 authority pursuant to Subsection E of Section 7-1-6.11 NMSA
14 1978 and to distribute those cigarette tax proceeds to the
15 general fund.

16 G. Any law authorizing the imposition, collection
17 or distribution of the cigarette tax or that affects the
18 cigarette tax shall not be amended, repealed or otherwise
19 directly or indirectly modified so as to impair or reduce debt
20 service coverage for any outstanding revenue bonds that may be
21 secured by a pledge of those cigarette tax revenues, unless the
22 revenue bonds have been discharged in full or provisions have
23 been made for a full discharge.

24 H. The [~~New Mexico finance~~] authority may
25 additionally secure the revenue bonds issued pursuant to this

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1 section by a pledge of money in the public project revolving
2 fund with a lien priority on the money in the public project
3 revolving fund as determined by the authority.

4 I. The [~~New Mexico finance~~] authority may purchase
5 revenue bonds issued pursuant to this section with money in the
6 public project revolving fund pursuant to the provisions of
7 Section 6-21-6 NMSA 1978."

8 Section 3. Section 7-1-6.11 NMSA 1978 (being Laws 1983,
9 Chapter 211, Section 16, as amended) is amended to read:

10 "7-1-6.11. DISTRIBUTIONS OF CIGARETTE TAXES.--

11 A. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 shall be made to the county and municipality recreational
13 fund in an amount equal to [~~one and thirty-five hundredths~~]
14 seventy-nine hundredths percent of the net receipts, exclusive
15 of penalties and interest, attributable to the cigarette tax.

16 B. A distribution pursuant to Section 7-1-6.1 NMSA
17 1978 shall be made to the county and municipal cigarette tax
18 fund in an amount equal to [~~two and sixty-nine hundredths~~] one
19 and fifty-nine hundredths percent of the net receipts,
20 exclusive of penalties and interest, attributable to the
21 cigarette tax.

22 C. A distribution pursuant to Section 7-1-6.1 NMSA
23 1978 shall be made to the cancer research and treatment center
24 at the university of New Mexico health sciences center in an
25 amount equal to [~~one and thirty-five hundredths~~] six and nine-

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1 hundredths percent of the net receipts, exclusive of penalties
2 and interest, attributable to the cigarette tax.

3 D. A distribution pursuant to Section 7-1-6.1 NMSA
4 1978 shall be made to the New Mexico finance authority in an
5 amount equal to [~~two and two hundredths~~] one and nineteen-
6 hundredths percent of the net receipts, exclusive of penalties
7 and interest, attributable to the cigarette tax.

8 E. A distribution pursuant to Section 7-1-6.1 NMSA
9 1978 in an amount equal to [~~fourteen and thirty-seven~~
10 ~~hundredths~~] seventeen and fifty-five hundredths percent of the
11 net receipts, exclusive of penalties and interest, attributable
12 to the cigarette tax, shall be made, on behalf of and for the
13 benefit of the university of New Mexico health sciences center,
14 to the New Mexico finance authority.

15 F. A distribution pursuant to Section 7-1-6.1 NMSA
16 1978 in an amount equal to [~~six and five hundredths~~] three and
17 sixty-four hundredths percent of the net receipts, exclusive of
18 penalties and interest, attributable to the cigarette tax shall
19 be made to the New Mexico finance authority for land
20 acquisition and the planning, designing, construction and
21 equipping of department of health facilities or improvements to
22 such facilities.

23 G. A distribution pursuant to Section 7-1-6.1 NMSA
24 1978 in an amount equal to [~~fifteen and seventy-nine~~
25 ~~hundredths~~] twenty-five and forty-three hundredths percent of

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1 the net receipts, exclusive of penalties and interest,
2 attributable to the cigarette tax shall be made to the New
3 Mexico finance authority for deposit in the credit enhancement
4 account created in the authority.

5 H. A distribution pursuant to Section 7-1-6.1 NMSA
6 1978 in an amount equal to ~~[one]~~ six and ninety-five hundredths
7 percent of the net receipts, exclusive of penalties and
8 interest, attributable to the cigarette tax shall be made, on
9 behalf of and for the benefit of the rural county cancer
10 treatment fund, to the New Mexico finance authority.

11 I. A distribution pursuant to Section 7-1-6.1 NMSA
12 1978 in an amount equal to three and thirty-one hundredths
13 percent of the net receipts, exclusive of penalties and
14 interest, attributable to the cigarette tax shall be made to
15 the department of health to support public health programs,
16 including those programs providing services for tobacco
17 cessation and control, the tobacco quitline, cardiovascular
18 disease prevention and cervical cancer vaccination outreach."

19 Section 4. Section 7-12-3 NMSA 1978 (being Laws 1971,
20 Chapter 77, Section 3, as amended) is amended to read:

21 "7-12-3. EXCISE TAX ON CIGARETTES--RATES.--

22 A. For the privilege of selling, giving or
23 consuming cigarettes in New Mexico, there is levied an excise
24 tax at the rate of ~~[four and fifty-five hundredths cents~~
25 ~~(\$.0455)]~~ seven and fifty-five hundredths cents (\$.0755) for

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1 each cigarette sold, given or consumed in this state.

2 B. The tax imposed by this section shall be
3 referred to as the "cigarette tax".

4 Section 5. Section 7-12A-3 NMSA 1978 (being Laws 1986,
5 Chapter 112, Section 4, as amended) is amended to read:

6 "7-12A-3. IMPOSITION AND RATE OF TAX--DENOMINATION AS
7 "TOBACCO PRODUCTS TAX"--DATE PAYMENT OF TAX DUE.--

8 A. For the manufacture or acquisition of tobacco
9 products in New Mexico for sale in the ordinary course of
10 business, there is imposed an excise tax at the rate of
11 [~~twenty-five~~] forty percent of the product value of the tobacco
12 products.

13 B. The tax imposed by Subsection A of this section
14 may be referred to as the "tobacco products tax".

15 C. The tobacco products tax shall be paid by the
16 first purchaser on or before the twenty-fifth day of the month
17 following the month in which the taxable event occurs."

18 Section 6. EFFECTIVE DATE.--The effective date of the
19 provisions of Sections 4 and 5 of this act is July 1, 2007.
20 The effective date of the provisions of Sections 1, 2 and 3 of
21 this act is August 1, 2007.